

King County Public Defense Advisory Board

Creation of the Board

The King County Public Defense Advisory Board (“the Board”) was created, along with the King County Department of Public Defense and the office of County Public Defender, by a charter amendment that the Metropolitan King County Council placed on the November 2013 ballot by adopting Ordinance 17614.¹

Section 350.20.65 of the King County Charter (“Public Defense Advisory Board”) provides that the County Council shall prescribe by ordinance the Board’s membership, the process and qualifications for appointment to the Board, and the Board’s rules and procedures.²

Duties of the Board

Section 350.20.65 assigns the following duties to the Board:

- “[R]eview, advise and report on the department of public defense in a manner that may be prescribed by ordinance”;
- “[A]dvise the executive and council on matters of equity and social justice related to public defense”;
- “In the event of a vacancy in the office of county public defender, . . . recommend candidates from whom the county executive shall make an appointment to fill the vacancy subject to confirmation by the county council”; and
- Such additional duties as the County Council may prescribe by ordinance.

Sections 2.60.026 and 2.60.031 of the King County Code assigns the following additional duties to the Board:

- “Within sixty days after receiving the names, resumes, and other relevant information about the qualified candidates from the executive, the public defense advisory board shall provide in writing at the same time to the executive and the clerk of the county council the names of three candidates to fill the vacancy, together with copies of the candidates’ resumes and other relevant information, including all written information upon which the board relied in choosing the three candidates. The board shall not rank the

¹ Both the Department and the Board were created in response to a Washington Supreme Court ruling and the proposed settlement of a class action lawsuit against King County regarding county benefits for public defense agency employees (*Dolan v. King County*).

² Section 2.60.031(C) of the King County Code (Att. 24) provides in part that the Board “shall establish its own rules of procedure, subject to the county charter, the county code and other applicable law, and shall choose its own chair.”

candidates, but may summarize the particular strengths of each candidate.” (KCC 2.60.026(B)(2));

- Work collaboratively with the County Public Defender (KCC 2.60.031(B));
- Through the Board chair, consult with the County Prosecutor, the Courts, and the Department of Public Defense in the performance of all the Board’s duties except the recommendation of candidates to serve as County Public Defender (2.60.031(B));
- Meet at least once every two months (KCC 2.60.031(H)); and
- Issue at least two written reports to the Executive and the Council each calendar year: one on the Board’s review of the Executive’s proposed budget for public defense and one on the state of county public defense; the latter report must include an assessment of the county’s progress in promoting equity and social justice related to the criminal justice system and may include recommendations for advancing equity and social justice.

Board Membership

The 11-member Board is required by the county code (KCC 2.60.031(D)) (Att. 24) to consist of one representative from each of the following:

1. The Washington Association of Criminal Defense Lawyers;
2. The Washington state Office of Public Defense;
3. The Washington Defender Association;
4. The King County Bar Association;
5. A bar association identified as a minority bar association by the Washington State Bar Association;
6. A nonpartisan organization active in King County that focuses on mental health issues;
7. A nonpartisan organization active in King County that focuses on substance abuse issues;
8. A nonpartisan organization active in King County that focuses on issues concerning military veterans;
9. A nonpartisan organization active in King County that focuses on issues related to poverty;

10. A nonpartisan organization active in King County that focuses on juvenile justice issues; and
11. A nonpartisan organization active in King County that focuses on immigration issues.

KCC 2.60.031(G) (Att. 24) sets the following additional requirements:

- “Each member of the advisory board shall have substantial experience and expertise that are relevant to the work of the department of public defense and shall have an ability and willingness to commit the time necessary to attend meetings and participate effectively as a member of the board.”
- “A majority of the members should have substantial familiarity with advocating on behalf of the indigent.”
- “To the extent practicable, the board membership shall reflect the diversity of the county.”
- “A member may not, while serving on the board, hold elective public office except precinct committee officer, be a candidate for elective public office except precinct committee officer, serve as a King County judicial officer, a King County prosecuting attorney or a King County public defender or be an employee of a King County court, the King County prosecuting attorney or the King County department of public defense.”

Terms of Board Members

Board members serve three-year terms. To avoid excessive turnover, the terms are staggered, with the terms of three or four members expiring each year. To achieve this result, four of the initial board members are appointed to one-year terms, four are appointed to two-year terms, and three are appointed to three-year terms (KCC 2.60.031(E)). The term end dates for the initial appointees are listed in the table on the first two pages of this staff report.

The Council may reappoint Board members for additional three-year terms and may remove any Board member by motion adopted with the affirmative votes of at least five councilmembers. (KCC 2.60.031(E))

Board Selection Process

The process for selecting Board members is prescribed in KCC 2.60.031(F). Briefly, the represented organizations are notified of board vacancies and are invited to

recommend candidates to the County Executive, who makes appointments from among those recommended.³

The process that the Executive followed in soliciting recommendations was described as follows by the Executive's Chief of Staff:

We took an active and comprehensive approach to recruit based on the following three steps:

- First, we identified and sent letters to over 90 organizations who we thought had some connection to public defense, making them aware of this process and inviting them to nominate people for appointment.
- Second, we personally followed up with phone calls to all 90 organizations, and offered to meet with any who had further questions or interest in nominating individuals.
- Finally, as a result of our solicitation, we met with 14 groups, many of whom represent the various ethnic bar associations.

We also reached out to our labor partners, including SEIU 925, and received their feedback.

Based on this outreach, the Executive received recommendations from an impressive pool of candidates, 11 of whom are before you now.

Board Confirmation Process

Council confirmation or rejection of an appointment to the Board requires “the affirmative votes of at least five members” (KCC 2.60.031(F)(4)) (Att. 24). If the Council rejects an appointment, the represented organization⁴ is required to recommend to the Executive, within 30 days after receiving notice of the rejection, another candidate. The Executive then has an additional 30 days to make a new appointment from among all the recommended candidates (excluding those who have been rejected by the Council).⁵ (KCC 2.60.031(F)(5) (Att. 24))

³ Section 2.60.031(F) (Att. 24) contains a number of procedural details and contingency provisions.

⁴ That is, the organization that would have been represented by the rejected appointee.

⁵ If the represented organization fails to recommend another candidate within 30 days, the Executive may either continue to wait indefinitely or choose from among the remaining candidates who have not been rejected by the Council.